

James Bradley,

Plaintiff,

versus

American Eagle Outfitters, Inc.,

Defendant.

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§**ENTERED**

December 21, 2017

David J. Bradley, Clerk

Civil Action G-17-45

Opinion on Dismissal

1. *Background.*

In March of 2013, James Bradley started working as a store manager at American Eagle Outfitters in Texas City. In December, he became ill. He told his supervisor, Norma Lopez, that he had hemochromatosis and would need shorter days or extra days off for his treatments. In February, Lopez told him that because of the work he had missed and the shifts he had traded, he would likely be fired soon. He called the employee hotline, and the personnel department suggested that he consider taking a leave of absence.

In June, he began his leave. A year later, American Eagle wrote to him to tell him that his leave had been approved and then denied. It asked for more detailed medical documents. He was allowed to continue his unpaid leave until his doctor said that he could return to work in March 2017. American Eagle told him that his previous position was not open but offered him different jobs at other locations.

Meanwhile, in February and May of 2014, Bradley reported to the company that another employee was calling him names. He said that this Hispanic employee was discriminating against him because he was white. American Eagle did not take action against that employee.

On July 7, 2016, Bradley filed a charge of discrimination with the Equal Employment Opportunity Commission.

In his charge and complaint, he mistakenly names his employer as American Eagle Outfitters, Inc. His actual employer was its subsidiary, AE Outfitters Retail Co.

2. *Unopposed Dismissal.*

Because Bradley does not oppose dismissal of his discrimination and retaliation claims that accrued after July 7, 2016, those claims will be dismissed.

Bradley has apparently abandoned all of his claims except that American Eagle did not reasonably accommodate him. Even if he had not, the hostile work environment, retaliation, and breach of contract claims would be dismissed.

He says that the name-calling by the fellow employee created a hostile work environment. He did not timely file his charge with the EEOC. The last time he reports that this happened was in May 2014 – more than two years before he filed his EEOC charge in July of 2016.

Bradley alleges that American Eagle retaliated against him. First, he says that he was subjected to increased scrutiny at work. He gives no specifics, but the latest this could have occurred was June 3, 2014 – the day he began his leave. Then, he says that American Eagle's demanding that he give it more medical information was retaliation. A company may, at reasonable intervals, ask for additional medical facts from an employee on sick leave.¹ That happened on July 7, 2015 – 365 days before he filed his EEOC charge.

Bradley has not plausibly pleaded breach of contract. He says that American Eagle did not follow its own handbook. An employee handbook is neither a contract nor a law; it is merely a set of guidelines.

3. *Reasonable Accommodation.*

Bradley says that American Eagle did not reasonably accommodate him. He asked for shorter days or extra days off. In December of 2013 and January of 2014, American Eagle apparently allowed this. In June 2014, he took unpaid leave. A leave of absence accommodated his illness, just not in his preferred way.

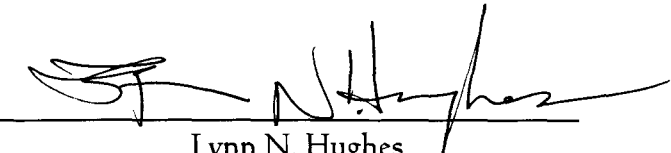
¹29 U.S.C.A. §2613(b), (c) (2009).

His EEOC charge was also not timely filed on this claim. He filed his charge on July 7, 2016. His 300 days began to run on June 3, 2014 – the day his leave began. He says that the 300-day period started on December 23, 2015, because American Eagle was still investigating his disability claim then. He knew by June 3 that American Eagle would not allow him to work shorter days or have extra days off. Bradley's reasonable accommodation claim will be dismissed.

4. *Conclusion.*

This case will be dismissed. James Bradley will take nothing from American Eagle Outfitters, Inc., and AE Outfitters Retail Co.

Signed on December 21, 2017, at Houston, Texas.



Lynn N. Hughes
United States District Judge